

1 testimony is not credible and what evidence undermines the claimant's complaints."
2 *Lester v. Chater*, 81 F.3d 821, 834 (9th Cir. 1995).

3 Here, the ALJ provided two valid reasons in support of his credibility
4 determination.

5 First, the ALJ found that Plaintiff's behavior in relation to his treatment
6 history undermined the alleged severity of his impairments. (AR at 24); *see Fair v.*
7 *Bowen*, 885 F.2d 597, 603 (9th Cir. 1989) (failure to follow prescribed course of
8 treatment can cast doubt on sincerity of claimant's pain testimony). For instance,
9 when Plaintiff visited the Veterans Administration in May 2008, he had already been
10 living without his medications for six months, suggesting that his condition was
11 more benign than alleged. (*Id.*; *see* AR at 257.) Also indicating milder symptoms is
12 Plaintiff's testimony that he no longer takes Vicodin for his pain. (AR at 24; *see* AR
13 at 80.) Lastly, and perhaps most troubling, Plaintiff has continued to consume
14 alcohol despite warnings from his doctors regarding its adverse effects on his
15 neuropathy and gout.^{2/} (AR at 24; *see, e.g.*, AR at 258, 262, 276, 292, 298, 301.)
16 Given these inconsistencies, the ALJ made no error in discrediting Plaintiff.

17 Second, though Plaintiff alleges intense foot pain, the ALJ found the severity
18 of this complaint to be weakened by Plaintiff's daily activities. (AR at 23-24.)
19 Indeed, Plaintiff's foot pain is apparently so severe that he cannot stand for longer
20 than 15- to 20-minutes. (AR at 23; *see* AR at 75.) Yet, despite these alleged
21 difficulties, Plaintiff was, for example, able to move his belongings when relocating
22 to another home. (AR at 23-24; *see* AR at 183.) Notably, with respect to that move,
23 Plaintiff only described pain resulting from "lift[ing] heavy things," such as his bed
24 dresser. (AR at 183.) Were Plaintiff's foot pain as severe as alleged, one would not

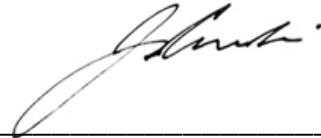
25
26
27 ^{2/} Incidentally, Plaintiff's refusal to heed the advice of his doctors weighs
28 heavily against his contention that his "impairments do not have a cure." (Joint Stip.
at 7.)

1 expect Plaintiff to engage in such physically demanding activities. Thus, as to this
2 ground, the ALJ's credibility determination remains intact.^{3/}

3 Accordingly, the Court finds that substantial evidence supported the ALJ's
4 decision that Plaintiff was not disabled. *See Mayes v. Massanari*, 276 F.3d 453,
5 458-59 (9th Cir. 2001).

6 Based on the foregoing, IT IS ORDERED THAT judgment shall be entered
7 **AFFIRMING** the decision of the Commissioner denying benefits.

8
9 Dated: April 30, 2013



10
11 Hon. Jay C. Gandhi
12 United States Magistrate Judge
13
14
15
16
17
18
19
20

21 ^{3/} The ALJ did, however, erroneously find inconsistencies between Plaintiff's
22 alleged impairments and several of his daily activities (*e.g.*, "cook[ing] his own
23 meals, run[ning] errands, perform[ing] household cleaning, and shop[ping] weekly
24 for groceries"). (AR at 23.) These activities are not so physically or mentally
25 demanding that it is apparent that Plaintiff exaggerated his limitations. Under the
26 "clear and convincing" standard, then, there must be some explanation of how these
activities undermine the specific limitations alleged by Plaintiff. *See Lester*, 81 F.3d
at 834.

27 In any event, considering the adequacy of the rest of the ALJ's credibility
28 analysis, this error is harmless. *See Batson v. Comm'r of Soc. Sec.*, 359 F.3d 1190,
1197 (9th Cir.2004).